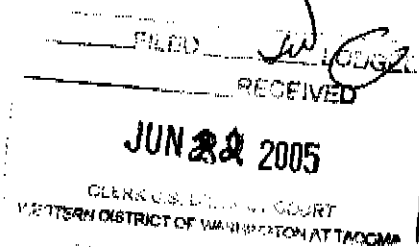


MAGISTRATE JUDGE

05-CR-05147-ORD



UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KATHRYN D. KINZER,

Defendant.

NO. CR05-5147

FINDINGS AND ORDER ACCEPTING
DEFENDANT FOR DEFERRED
PROSECUTION, APPROVING
TREATMENT PLAN, AND DIRECTING
DEFENDANT TO TAKE TREATMENT
AS PRESCRIBED

(Clerk's Action Required)

THIS MATTER, coming on for hearing this 12th day of September,
2005, upon Defendant's Petition for Deferred Prosecution; Defendant appearing in person and by
her attorney, WILLIAM R. MICHELMAN; the United States of America being represented by
Capt. J. J. J. J., Special Assistant United States Attorney; the Court having
examined and incorporated into the record Petitioner's Petition and Statement in support of
deferred prosecution, the evaluation and treatment report prepared by Army Substance Abuse
Program, and the files and records herein; and the Court being fully advised in the premises, does
now make and enter the following:

FINDINGS AND ORDER ACCEPTING
DEFENDANT FOR DEFERRED PROSECUTION - 1

LAW OFFICE OF
WILLIAM R. MICHELMAN, INC., P.S.
A PROFESSIONAL SERVICE CORPORATION
SUITE B
7512 BRIDGEPORT WAY WEST
LAKEWOOD, WASHINGTON 98499-8377
(253) 582-3387

ORIGINAL

I. FINDINGS OF FACT

A. On or about the 17th day of December, 2004, Petitioner was charged with the offenses charged in the Information. These offenses occurred as a direct result of alcoholism/chemical dependency problems.

B. The Petitioner suffers from an alcohol problem and is in need of treatment;

C. The probability of similar misconduct in the future is great if the problem is not treated;

D. That Petitioner is amenable to treatment;

E. An effective rehabilitative treatment plan is available to Petitioner through Army Substance Abuse Program, an approved treatment facility as designated by the laws of the State of Washington, and the Petitioner agrees to be liable for all costs of this treatment program;

F. That Petitioner agrees to comply with the terms and conditions of the program offered by the treatment facility as set forth in the attached diagnostic evaluation from Army Substance Abuse Program, and that Petitioner agrees to be liable for all costs of this treatment program;

G. That Petitioner has knowingly and voluntarily stipulated to the admissibility and sufficiency of the facts as contained in the written police reports attached to the Statement of Petitioner filed herewith.

H. That Petitioner has acknowledged the admissibility of the stipulated facts in any criminal hearing or trial on the underlying offenses held subsequent to revocation of this Order Granting Deferred Prosecution and that these reports will be used to support a finding of guilt;

From the foregoing FINDINGS OF FACT, the Court draws the following:

1
2
3 **II. CONCLUSIONS OF LAW**

4 A. That the above-entitled Court has jurisdiction over the subject matter and
5 Petitioner, KATHRYN D. KINZER, in this case;

6 B. That Petitioner's Petition for Deferred Prosecution meets the requirements of
7 RCW 10.05 et. seq.;

8 C. That the diagnostic evaluation and commitment to treatment meets the
9 requirements of RCW 10.05.150;

10 D. That Petitioner is eligible for deferred prosecution.

11 **III. ORDER**

12 Having made and entered the foregoing FINDINGS OF FACT and CONCLUSIONS OF
13 LAW, it is hereby

14 ORDERED that the defendant is accepted for deferred prosecution. The prosecution of
15 the above matter is hereby deferred for five (5) years pursuant to RCW 10.05 et. seq., upon the
16 following terms and conditions:

17 A. Petition shall be on probation for the deferral period and follow the rules and
18 regulations of probation;

19 B. Petitioner shall enroll in and successfully complete the two-year treatment
20 program recommended by Army Substance Abuse Program according to the terms and
21 conditions of that plan as outlined in the diagnostic evaluation, a true copy of which is attached
22 to the Statement of Petitioner and incorporated herein by reference. Petitioner shall not change
23 treatment agencies without prior Probation approval;

24 C. The treatment facility, Army Substance Abuse Program, shall file with the United
25 States Probation Office status reports of Petitioner's compliance with treatment, monthly during
26 the first year of the deferred prosecution period and every three (3) months during the second
27 year. The Court may increase the frequency of these reports at its discretion;
28

FINDINGS AND ORDER ACCEPTING
DEFENDANT FOR DEFERRED PROSECUTION - 3

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DEFENDANT FOR DEFERRED PROSECUTION - 5

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LAKEWOOD, WASHINGTON 98499-8377
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D. Petitioner shall notify U.S. Probation within 72 hours of any residence change.

E. Petitioner shall abstain during the deferred prosecution period from any and all consumption of alcoholic beverages and/or nonprescribed mind-altering drugs;

F. Petitioner shall not operate a motor vehicle on the public highways without a valid operator's license and proof of liability insurance sufficient to comply with the state laws on financial responsibility;

G. Petitioner shall be law abiding and shall not commit any alcohol/drug related offenses or other criminal offenses during the period of deferral;

H. Petitioner shall notify U.S. Probation within 72 hours of being arrested, questioned, or cited by Law Enforcement;

I. In the event that Petitioner fails or neglects to carry out and fulfill any term or condition of her treatment plan or violates any provision of this Order or any rule or regulation of her probation officer, upon receiving notice, the Court shall hold a hearing to determine why the Defendant should not be removed from deferred prosecution and prosecuted for the offenses charged;

J. In the event the Court finds cause to revoke this deferred prosecution, the stipulated police reports shall be admitted into evidence, and Petitioner shall have her guilt or innocence determined by the Court;

K. That the Statement of Petitioner for Deferred Prosecution shall remain sealed, and all subsequent reports of documents relating to her treatment information shall be sealed, to maintain confidentiality of Petitioner's treatment information;

L. That the Department of Licensing be notified of this order accepting the Petitioner for deferred prosecution;

M. Upon proof of Petitioner's successful completion of five years deferral period in this Order, the Court shall dismiss the charges pending against Petitioner.


N. Additional conditions: _____

DONE IN OPEN COURT this 12th day of September, 2005.


UNITED STATES MAGISTRATE JUDGE

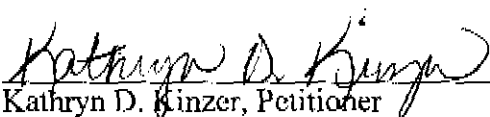
Presented by:

WILLIAM R. MICHELMAN, INC., P.S.


William R. Michelman, WSBA #6803
Attorney for Petitioner

I have received a copy of the foregoing Order of Deferred Prosecution. I have read and understand its contents, and agree to abide by the terms and conditions set forth herein.

Dated: 6/9/05


Kathryn D. Kinzer, Petitioner

I certify that a copy of this signed Order was mailed to the subject treatment facility, on September 13, 2005. The U.S. Probation Office was also furnished a copy of this Order.


Clerk